

REMARKS/ARGUMENTS

Claims 1-30 are pending. By this Amendment, claims 1, 4, 5, and 7-9 are amended, and claims 11-30 are added. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

At the outset, Applicant's undersigned representative would like to object to the extremely protracted prosecution of this application. In particular, this application was filed on September 18, 2001. The Patent Office issued Office Actions on October 2, 2002 and March 12, 2003, to which the Applicant's provided responses on, respectively, December 20, 2002 and July 2, 2003. In those responses, the only independent claim of this application was only slightly amended to address informalities, while the prior art rejections were simply traversed. While the Applicant appreciates the indication that the previous two rejections have been withdrawn upon further consideration of Applicant's arguments, the Patent Office continues to assert rejections based on new grounds which are equally inapplicable.

Moreover, Applicant filed first, second, third and fourth Status Inquiries as the Patent Office took over two years to respond to Applicant's July 2, 2003 Amendment. By this Amendment, Applicant has again made an earnest effort to place the entire application in condition for allowance. Applicant respectfully requests that the Patent Office timely consider the present Amendment and contact the undersigned if the application is not deemed to be placed into allowable form, prior to issuing another Office Action which is not a Notice of Allowance.

Turning now to the Office Action, claims 4 and 5 were rejected under 35 U.S.C. §112, second paragraph. By this Amendment, claim 4 is amended for clarity only so as to provide for more positive antecedent basis for "the interior". Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 1, 3-6, 9 and 10 were rejected under 35 U.S.C. §102(b) over Miller (U.S. Patent No. 5,272,285). This rejection is respectfully traversed.

Miller is directed to a sound attenuating machinery cover. According to the Background section of Miller, his invention is specifically directed toward overcoming the shortcomings of the prior art muffler covers of U.S. Patent No. 3,896,897 to Hillbush and 2,949,975 to Plummer. According to Miller, both of these prior art patents are directed toward highly flexible, laminate, blanket-like covers adapted for wrapping about the body of a pneumatic tool such as a jack hammer or an air drill. Again, according to Miller, the covers of both of these patents are relatively complex laminate structures and are not sufficiently rigid to retain a given shape separate and apart from the tool body about which they are to be wrapped. Also, the wrapping of such highly flexible sound absorbent cover about machinery is cumbersome. Miller goes on to say that, by contrast, it would be desirable to have a cover which is sufficiently rigid to retain a desirable form. See column 1, lines 21-52.

Accordingly, Miller discloses a clam-shell type sound attenuating design that includes an outer layer of relatively rigid, bendable, resilient material and an inner layer of flexible sound absorbent material. See column 2, lines 61-64. Further, Miller specifies that the layer is preferably constructed of fiberglass or other flexible and suitably sound absorbent material and is attached to the interior surfaces of the outer layer 14 as by means of glue, pressure sensitive adhesive, or the like. In an alternative, the inner layer 16 can be constructed of a conventional molded plastic foam material such as, for example, polyurethane. See column 2, lines 33-40.

Thus, it is clear that Miller does not teach or suggest an apparatus for supplying breathable gas which includes a relatively rigid external housing, at least one noise producing component, and a thin flexible enclosure substantially sealed around said at least one noise

producing component. Clearly, Miller seeks to avoid the use of a flexible cover, for the reasons given in the Background section, i.e., not sufficiently rigid to retain a given shape separate and apart from the tool body of which they are to be wrapped, and the wrapping of such highly flexible sound absorbing covers about machinery is cumbersome. Moreover, because the layer 16 is constructed of fiberglass and is attached to the interior surfaces of the outer layer 14, the sound attenuating cover 10 in an overall sense is generally rigid in nature since the outer layer 14 is made of relatively rigid, bendable resilient material.

Nonetheless, in an effort to further expedite prosecution, especially in view of the Patent Office's delay in prosecuting Applicant's last Amendment, claim 1 is amended herein to specify that the at least one noise producing component includes an electric blower and at least a first muffler. Miller clearly does not teach or suggest this subject matter since Miller only teaches the use of a "compressor" which is provided within the sound suppressing cover 10.

In addition, dependent claims 3-6, 9 and 10 are not taught or suggested by Miller. For example, claim 3 recites that the plastic material is Cosmohene F221-1 or polyethylene. Miller teaches that the layer 16 is preferably constructed of fiberglass or other flexible and suitably sound absorbent material. In an alternative, the inner layer can be constructed from foam material such as polyurethane. Therefore, Miller does not teach that the plastic material is either a Cosmohene F221-1 or polyethylene, as recited in claim 3.

In addition, Miller does not teach the method of claim 9, which includes the steps of providing at least one noise producing component in a sub-assembly, placing the sub-assembly into the interior of a flexible enclosure through an opening therein, substantially sealing or closing the opening and subsequently, placing the flexible enclosure within an external housing. Miller does not teach providing at least one noise producing component in a sub-assembly,

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placing the sub-assembly within the enclosure, substantially sealing or closing the opening, and subsequently placing the flexible enclosure within the external housing, as recited in claim 9.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 3 was rejected under 35 U.S.C. §103(a) over Miller. This rejection is respectfully traversed.

Applicant appreciates the acknowledgement in paragraph 10 that Miller does not teach or suggest that the plastic material is Cosmohene F221-1 or polyethylene. However, the Examiner goes on to find that the selection of these materials is a mere matter of obvious design choice. However, Applicant respectfully submits that one of ordinary skill in the art would not have appreciated that the thin, bag-like plastic materials recited in claim 3 are effective in the suppression of noise generated from, for example, an electric motor in an apparatus for supplying breathable gas. Moreover, there is simply no motivation to replace Miller's inner layer 16, which is made of fiberglass or foam, with a thin flexible enclosure made of either Cosmohene F221-1 or polyethylene.

Reconsideration and withdrawal of the rejection are respectfully requested.

New claims 11-30 are provided for the Examiner's consideration.

Applicant appreciates the indication that claims 7 and 8 would be allowable if rewritten into independent form. However, in view of the above amendments and remarks, Applicant respectfully submits that all of the claims are patentable and that the entire application is in condition for allowance.

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Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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